

Notice of Allowability

Application No.

09/688,015

Examiner

Andrea D Small

Applicant(s)

YUAN ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 11/6.
2. ☒ The allowed claim(s) is/are 9-10, 17-25, 35-37 and 41-42, renumbered 1-16.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>11 2424</u> |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other _____ |

DETAILED ACTION

I. Preliminary Matters:

(a) Applicants amendment filed 11/06/2003 along with a request for continued prosecution has been received and entered into the file.

-Claims 1-2 are cancelled

-Claims 3-8, 11-16, 26-31 and 38-40 have been withdrawn as being drawn to non-elected inventions.

-Claims 3-41 are pending.

II. Remarks:

(a) Rejection under 35 USC 112, first paragraph:

The amendments to the claims as well as the remarks provided by Applicants have been found to be sufficient to overcome the rejection of record.

III. Examiner's Amendment:

This application is in condition for allowance except for the presence of claims 3-8, 11-16, 26-31, 38-40, drawn to non-elected without traverse. Additionally amendments to claims 9, 24 and 41 are also attached. Further, new claim 42 has been added. And finally, claims 3-8, 11-16, 26-31, 32-34, 38-40 have been cancelled. The examiner's amendment attached provides for the aforementioned changes.

IV. Contact Information:

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea D. Small, whose telephone number is (703) 305-0811. The examiner can normally be reached on Monday-Thursday from 8:30 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone

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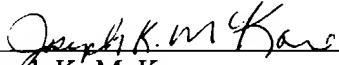
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7921. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [Joseph.McKane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-1234

Andrea D. Small, Esq.
December 1, 2003



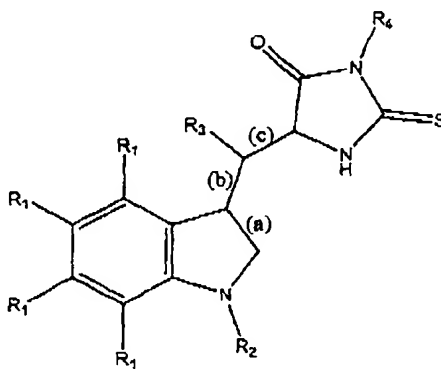
Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626
Technology Center 1

EXAMINER'S AMENDMENT TO THE CLAIMS

Page 1

Amend claims 19, 24 and 41 as follows:

9. (Currently amended) A method for decreasing necrosis in a subject with a disease or condition selected from the group consisting of: Alzheimer's disease, Huntington's disease, cerebral ischemia, stroke, amyotrophic lateral sclerosis, multiple sclerosis, Lewy body disease, Menke's disease, Wilson disease, Creutzfeldt-Jakob disease, and Fahr disease, said method comprising treating a cell with a chemical compound, ~~said compound~~ of the formula:



wherein

each R₁ is independently selected from the group consisting of hydrogen, methyl, carboxy, hydroxyl, methoxyl, amino, and nitro;

R₂ is selected from the group consisting of hydrogen, alkyl, and acyl;

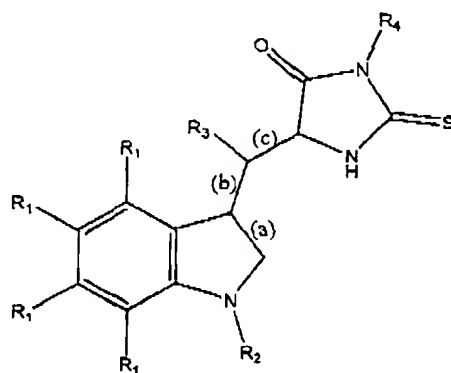
R₃ is selected from the group consisting of alkyl, acyl, halogen, hydrogen, and hydroxyl;

R₄ is selected from the group consisting of methyl, hydroxyl, carboxyl, and linear and branching alkyl groups; and

each of the bonds (a), (b), and (c) independently is either a double or single bond, provided, however, that bond (a) and bond (b) are not both double bonds.

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24. (Currently amended) A method for treating a ~~condition in a patient subject~~ with a condition selected from the group consisting of: Alzheimer's disease, Huntington's disease, cerebral ischemia, stroke, amyotrophic lateral sclerosis, multiple sclerosis, Lewy body disease, Menke's disease, Wilson disease, Creutzfeldt-Jakob disease, and Fahr disease, wherein decreasing necrosis is of benefit, said method comprising ~~the steps of~~ administering to said subject a chemical compound having the formula:



wherein

each R₁ is independently selected from the group consisting of hydrogen, methyl, carboxy, hydroxyl, methoxyl, amino, and nitro;

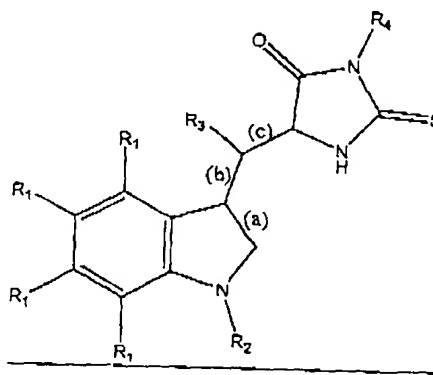
R₂ is selected from the group consisting of hydrogen, alkyl, and acyl;

R₃ is selected from the group consisting of alkyl, acyl, halogen, hydrogen, and hydroxyl;

R₄ is selected from the group consisting of methyl, hydroxyl, carboxyl, and linear and branching alkyl groups; and

each of the bonds (a), (b), and (c) independently is either a double or single bond, provided, however, that bond (a) and bond (b) are not both double bonds.

41. (Currently amended) ~~The method of claim 24, wherein said condition is A~~
method for treating a subject with a disease or condition selected from the group
consisting of: a neurodegenerative disease, a liver disease, a pancreatic disease, an
ischemic brain injury, an ischemic heart injury, an ischemic injury to non-cardiac and
non-neural tissue, a head trauma, a necrotic ulceration, septic shock, coronary heart
disease, a gastrointestinal disease, tuberculosis, a viral infection, or and conditions
associated with HIV infection or AIDS, said method comprising treating a cell with a
chemical compound of the formula:



wherein

each R₁ is independently selected from the group consisting of hydrogen, methyl,
carboxy, hydroxyl, methoxyl, amino, and nitro;

R₂ is selected from the group consisting of hydrogen, alkyl, and acyl;

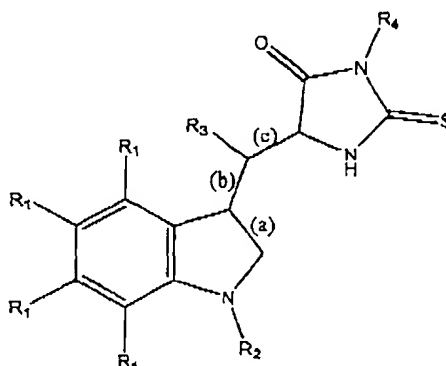
R₃ is selected from the group consisting of alkyl, acyl, halogen, hydrogen, and
hydroxyl;

R₄ is selected from the group consisting of methyl, hydroxyl, carboxyl, and linear
and branching alkyl groups; and

each of the bonds (a), (b), and (c) independently is either a double or single bond,
provided, however, that bond (a) and bond (b) are not both double bonds.

Please add new claim 42:

42. (New) A method for decreasing necrosis in a subject with a disease or condition selected from the group consisting of: a liver disease, a pancreatic disease, an ischemic brain injury, an ischemic heart injury, an ischemic injury to non-cardiac and non-neural tissue, a head trauma, a necrotic ulceration, septic shock, coronary heart disease, a gastrointestinal disease, tuberculosis, a viral infection, and conditions associated with HIV infection or AIDS, wherein decreasing necrosis is of benefit, said method comprising administering to said subject a chemical compound having the formula:



wherein

each R₁ is independently selected from the group consisting of hydrogen, methyl, carboxy, hydroxyl, methoxyl, amino, and nitro;

R₂ is selected from the group consisting of hydrogen, alkyl, and acyl;

R₃ is selected from the group consisting of alkyl, acyl, halogen, hydrogen, and hydroxyl;

R₄ is selected from the group consisting of methyl, hydroxyl, carboxyl, and linear and branching alkyl groups; and

each of the bonds (a), (b), and (c) independently is either a double or single bond, provided, however, that bond (a) and bond (b) are not both double bonds.

Please cancel claims 3-8, 11-16, ~~26-31~~³²⁻³⁴ and 38-40.

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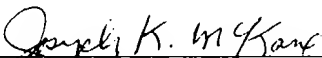
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